

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Crl.MC.No. 2827 of 2007()

CC.192/2007 of JUDL. MAGISTRATE OF FIRST CLASS, KASARAGOD

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PETITIONER: 4TH ACCUSED

ABDUL RAHIMAN,
S/O.HASSAINAR,
RESIDING AT AJANUR, THEKKEPPURAM,
AJANUR VILLAGE, MANIKKOTH PO,
KASARGOD DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENTS: STATE

THE STATION HOUSE OFFICER,
KASARGOD POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM,.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J
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Crl.M.C. No.2827 Of 2007
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Dated this the 12th day of September, 2007

ORDER

Petitioner faces indictment in a prosecution for the offences punishable, under Section 379 IPC. There were co-accused also. The case against him was split up. The petitioner was not available for trial along with co-accused. The petitioner has not appeared either at the crime stage or later. The learned Magistrate has issued coercive processes against the petitioner. The petitioner finds that processes chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He hence prays that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. Having considered all the relevant inputs, I find no reason to issue directions under Sec.482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned

Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE